

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Docket No. 26.2.C47/USA

In re Application of: )  
Walter J. Peterson et al. )  
Serial No. 10/706,607 )  
Filed 11/12/2003 ) Group Art Unit 3671  
For WALK AERATOR WITH ) Examiner C. Novosad  
INBOARD WHEELS )  
)  
)

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(d)  
WITH CERTIFICATION UNDER 37 C.F.R. § 1.97(e)

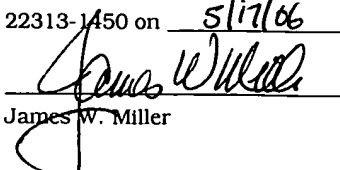
Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. §§ 1.56, 1.97 and 1.98, the Applicants wish to bring the prior art references listed on the attached Forms PTO/SB/08A and/or 08B to the attention of the Patent and Trademark Office. Copies of the prior art references listed on the attached Forms are enclosed.

The **Verti-Drain Model 001.060** is an aerator that has a pair of side-by-side front wheels. The front wheels are relatively large and have rubber tires. In addition, the  
Page - 1 -

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James W. Miller

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aerator has a pair of smaller rear wheels with one rear wheel being located on each side of the aerator with the rear wheels being outboard of the coring swath. These rear wheels do not have rubber tires but appear to be solid wheels.

The rear wheels are apparently NOT used when the aerator is being used to aerate but are lifted up out of contact with the ground. The rear wheels engage the ground only when the aerator is being transported from place to place.

Note Paragraph 5.3 of the User's Manual which reads as follows:

#### **"5.3 Working with the VERTI-DRAIN**

The working width of the machine is wider than the track of the Kubota wheels. This allows the machine to work flush along the side of golf greens, lawn borders, etc. The transporting wheels under the VERTI-DRAIN are only meant to facilitate the transport and not for use while working."

In this quotation, the Kubota wheels are the rubber tired front wheels and the transporting wheels are the two smaller, solid rear wheels set on opposite sides of the aerator frame.

However, when the transporting wheels (the two smaller, solid rear wheels) are raised out of contact with the ground when the aerator is being used to aerate the turf, **the rear of the aerator is still supported by a rear roller that trails the coring tines.** See Section 3(7) of the User's Manual which reads as follows:

"7. The rear roller (see Fig. 7)

The rear roller delivered as a standard is composed of a small (1) and a large (2) roller. When only the large roller is used for rolling the aerated field, the small roller must be moved to the high position so that only the large roller is in contact with the ground.

The small roller must never be disconnected as it holds the roller supports together. When the rear roller is replaced by a brush or other accessory, the small roller can be used to adjust the exact working height of the attachment."

Thus, even though the rear wheels may not contact the ground when the Verti-Drain is aerating, the trailing rear roller (either the large roller or the small roller when the large roller is not present) follows the coring head and contacts the ground. In addition, the operator walks behind the aerator. Thus, cores left on top of the ground will be crushed by the trailing rear roller and the walking operator.

The summary of the reference provided herein is for the Examiner's convenience only. The Examiner should also thoroughly review each reference to independently determine its relevance. It is believed that the claims of the present application are allowable over the cited prior art.

The assignee of this invention **ADMITS** that the **Verti-Drain Model 001.060** aerator is prior art to the above-identified application even though the documentary materials relating thereto are undated. In view of this admission, this piece of prior art is entitled to consideration by the Examiner.

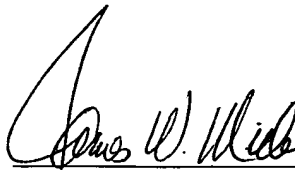
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Authorization to Charge the 37 C.F.R. § 1.17(p) Fee

Please charge the 37 C.F.R. § 1.17(p) fee to Deposit Account No. 20-1315 of The Toro Company, the assignee of this application. A duplicate copy of this sheet is enclosed.

Respectfully submitted,



May 17, 2006

James W. Miller  
Registration No. 27,661  
Suite 1960  
Rand Tower  
527 Marquette Avenue  
Minneapolis, MN 55402

Telephone (612) 338-5915



Certification under 37 C.F.R. § 1.97(e)

I hereby certify that no item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the Information Disclosure Statement.

Authorization to Charge the 37 C.F.R. § 1.17(p) Fee

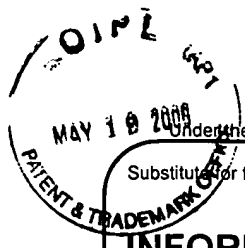
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James W. Miller  
Registration No. 27,661  
Suite 1960  
Rand Tower  
527 Marquette Avenue  
Minneapolis, MN 55402

Telephone (612) 338-5915



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<b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  (Use as many sheets as necessary)		<b>Complete if Known</b>	
		Application Number	10/706,607
		Filing Date	11/12/2003
		First Named Inventor	Walter J. Petersen
		Art Unit	3671
		Examiner Name	C. Novosad
Sheet 1	of 1	Attorney Docket Number	26.2.C47/USA

NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T <sup>2</sup>
		Verti-Drain Model 001.060 Brochure (undated but admitted prior art)	
		User's Manual for Verti-Drain Model 001.060 (undated but admitted prior art)	
		Pg. 431 Back Roller Parts Illustration for Verti-Drain Model 001.060 (undated but admitted prior art)	

Examiner Signature		Date Considered	
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\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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